BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of

2000 Biennial Regulatory Review --	)	CC Docket No. 00-229
Telecommunications Service Quality	)	
Reporting Requirement	)	

COMMENTS OF

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INTRODUCTION AND SUMMARY

The Texas Office of Public Utility Counsel (OPC) represents residential and small business consumers of Texas in telephone proceedings before the Texas Public Utility Commission, the Federal Communications Commission and in various state and federal courts. OPC hereby presents its initial Comments in response to the Commission's Notice of Proposed Rulemaking in CC Docket 00-229.[1]

OPC has thoroughly reviewed the NPRM, and offers the following conclusions and recommendations for Commission consideration:

- The Commission should not reduce the ARMIS service quality reporting requirements applied to incumbent LECs (ILECs) before competition in local exchange markets has progressed sufficiently to discipline ILECs' retail service quality performance.

- At this time, competitive pressures alone are insufficient to incent carriers to maintain high service quality in the local telecommunications market. In fact, ILEC retail service quality has been problematic and recently has required regulatory intervention in a number of states.

- Thus, while OPC supports greater dissemination of service quality information to consumers, it is premature to eliminate the collection and reporting of ARMIS data that is most useful to regulators' evaluation of ILEC service quality performance.

[1] Notice of Proposed Ruling, *In the Matter of 2000 Biennial Regulatory Review – Telecommunications Service Quality Reporting Requirements*, CC Docket 00-229, released November 9, 2000 ("NPRM").

- The Commission has already acknowledged in the context of its review of the SBC/Ameritech merger application that the ARMIS reporting system provides data that is essential for benchmark evaluations of the ILECs' service quality performance.
- Decisions to modify specific ARMIS reporting requirements should be made in the context of the potential gains or losses to consumers from changes in the level of service quality that they ultimately receive. From this perspective, most of the Commission proposals to modify retail service quality reporting should not be adopted.
- One exception may be ILEC customer satisfaction surveys, which appear to be too subjective to provide meaningful information for inter-carrier benchmarking purposes.
- Oversight of network reliability remains a fundamental regulatory responsibility and the reliability measures currently reported by ILECs should be maintained.
- The Commission should extend the service quality reporting requirements applied to basic exchange services to encompass regulated xDSL service offerings.
- The proposal to "streamline" MSA/non-MSA reporting would eliminate reporting detail essential to the detection and prevention of service quality declines in rural regions.
- Neither consumers nor regulators would benefit significantly from an expansion of FCC service quality reporting requirements to encompass CLECs.
- The Commission should consider cost-effective means to ensure that consumers have access to ILEC service quality data, such as requiring ILECs to post service quality information on their own website, and to send a periodic notice in customers' bills concerning the data that is available.

Each of these conclusions and recommendations is described in full in the Comments offered below.

REVIEW OF SERVICE QUALITY REPORTING REQUIREMENTS

I. The Commission should not reduce the ARMIS service quality reporting requirements applied to incumbent LECs before competition in local exchange markets has progressed sufficiently to discipline incumbent LECs' retail service quality performance.

The Commission hypothesizes that, as the market for telecommunications becomes more competitive, service quality will become a distinguishing feature of a carrier's offerings used to attract and keep customers. The Commission believes that in a competitive environment, consumers will select services based in part upon their quality, and therefore compel service providers to supply high quality services. "Under such circumstances, we foresee less of a regulatory role in monitoring service quality." [2] The Commission proposes to "eliminate the bulk of the existing service quality reporting requirements, which no longer make sense in today's marketplace."[3] Having said that, the Commission acknowledges that competition is still in a "relatively early stage."[4] It is OPC's position that, at this time, insufficient competition exists to put pressure on carriers to provide high quality services. Many residential customers, especially those in non-metropolitan areas, have not yet seen competitive alternatives to their incumbent local exchange carrier. Therefore, regulatory oversight of service quality is crucial today, and will remain so until a fully competitive market exists that will sufficiently discipline ILECs' service quality performance.

A. At this time, competitive pressures alone are insufficient to incent carriers to maintain high service quality in the local telecommunications market.

As of June 30, 2000 -- more than four years after the passage of the *Telecommunications Act* -- only 6.7% of the nation's local access lines were provided by competitive local exchange carriers (CLECs).[5] In New York, where Verizon has been given Section 271 authority,[6] the incumbent provided only 1.2% of its access lines as unbundled

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[2] NPRM, at para. 11.
[3] NPRM, at para. 2.
[4] NPRM, at para. 11.
[5] Federal Communications Commission, Industry Analysis Division, "Local Telephone Competition: Status as of June 30, 2000," December 2000 ("Local Telephone Competition"), at 1.
[6] The OPC uses Verizon – New York as a benchmark in its discussion regarding competition given the fact that it was the first Bell operating company to receive Section 271 authority. Although OPC does not believe that the New York market is fully competitive, competition has progressed further in the New York metropolitan area than in most areas of the country.

network elements (UNEs) in 1999.[7] The provision of UNE loops by RBOCs nationally represented about 1.73% of the RBOCs' total access lines in June, 2000.[8] The level of facilities-based competition is even more disappointing: CLECs provide approximately 4.3-million end user lines over their own facilities, which represents just 2.3% of total end user access lines across the country.[9] Furthermore, there was not a single CLEC providing service in 46% of the nation's zip codes in June of 2000.[10] While the Common Carrier Bureau's *Local Competition Report* notes that only 14% of the country's population lives in these areas, this still remains a significant problem when combined with the fact that in many areas where there appears to be many carriers competing, these carriers do not serve residential customers. Moreover, the majority of CLECs are targeting the more lucrative large business customer market, with much less competition occurring in the small (one-to-twenty line) business and most residential subscribers. According to the *Local Competiton Report*, more than 60% of CLEC lines were used to serve medium and large businesses and government/institutional customers.[11] Thus, ILECs remain overwhelmingly dominant in the residential local exchange market.

The Commission seeks comment on whether the ILEC service quality monitoring regime should be modeled after the airline industry monitoring program, and describes that program as being *predominantly voluntary* and *consumer-oriented*.[12] Additionally, the Commission seeks comment on whether carriers should be relieved of all mandatory reporting "under certain circumstances."[13] OPC believes that the airline industry-monitoring program does not provide a suitable model for how ILEC service quality information should be treated. In fact, the airline industry experience demonstrates that, even in an industry that is generally much more competitive than local telephone service, a consumer-oriented, voluntary approach to monitoring is insufficient to maintain high quality service.

In June, 2000, the Office of the Inspector General released an ""Interim Report on Airline Customer Service Commitment" that included findings on airline service quality.[14]

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[7] Federal Communications Commission, Common Carrier Bureau, *Fifth Survey on the State of Local Competition*, data as of June 30, 1999. OPC notes that the Commission has discontinued these surveys and now only reports competition data of this type at the national level, not by state. At this time, there is no means to evaluate on a consistent basis the level of competition in particular states subsequent to June 30, 1999. This problem underscores the importance of the Commission's role in collecting and making available relatively uniform, standardized data from ILECs such as the service quality data that it is seeking in this NPRM to significantly reduce.

[8] Local Telephone Competition, at Table 4.

[9] *Id.*, at Table 3.

[10] *Id.*, at 3.

[11] *Id.*

[12] NPRM, at paras. 12-13.

[13] *Id.*, at para. 31.

[14] Office of Inspector General, "Interim Report on Airline Customer Service Commitment", U.S. Department of Transportation, Report AV-2000-102, June 27, 2000.

According to this report, delays and cancellations have climbed more than fifty and sixty-eight percent, respectively, in the last five years.[15] The report also describes two possible causes of the service quality deficiencies seen in the airline industry. First, there may not be sufficient competition to ensure adequate service quality. Similar to the telecommunications market, recent mergers in the airline industry have decreased the number of competitors in the market.[16] Second, the report suggests that even in a fully competitive market, service quality may not be maintained. Rapid growth in the airline industry has created a major obstacle to adequate service quality. [17] These findings strongly suggest that the prospects are slim for successfully relying solely upon consumer pressures to maintain high service quality for local telephone services.

B. In a number of states, ILEC retail service quality has been problematic and required regulatory intervention.

The fact that it is premature to consider abandoning regulatory oversight of service quality in favor of a "consumer-oriented" approach alone is also underscored by the serious ILEC service quality problems that have occurred in a number of states. In Oregon, for example, service quality complaints surged by 460 percent following the implementation of an alternative regulation plan. The Oregon PUC was finally forced to terminate the alternative regulation plan, explaining that "US West has experienced a severe increase of service quality problems, relating both to customer service and technical service . . . Staff concluded that the number of customers reporting problems with their phone service exceeded a prescribed limit for 24 of US West=s 77 central offices.@[18] On December 30, 1996, the Oregon PUC renewed the order, commenting: AComplaints from USWC customers continue to come to the Commission=s Consumer Services Division at an alarming rate. Commission records show that USWC customers are as dissatisfied with the company=s service now as they were in April 1996, that customers are less happy with USWC service now than they were during calendar year 1994 . . .@[19]

Illinois provides an example of a state where the incumbents have argued, in state proceedings, that robust competition exists but nonetheless service quality is still a

[15] *Id.* at 2.
[16] *Id.*, at 15.

[17] *Id.*, at 13.
[18] Oregon PUC, *In the Matter of the Petition of Pacific Northwest Bell Telephone Company dba US West Communications, Inc, to Price List Telecommunications Services Other than Essential Local Exchange Services,* Order No. 96-107, UT 80, April 24, 1996, at 2.

[19] Oregon PUC, *In the Matter of an Investigation into Service Quality of US West Communications, Inc.*, Order 96-339, UM 285, at 2.

problem.[20] The degradation in Ameritech Illinois' service quality has been front-page news in Illinois for a number of months, but the problems with service quality in Illinois existed long before that. Despite monthly meetings between Staff and the Company regarding retail service quality dating back to the fall of 1998, it became obvious to the Illinois Commerce Commission ("ICC") that fixing the serious service quality problems in Illinois would take some effort. In the past several months, the severity of the situation has become more pronounced. The ICC began a series of meetings with SBC/Ameritech senior officers to address the ICC's dissatisfaction with Ameritech Illinois' service quality levels. In a recent statement, the Chairman of the ICC wrote: AIn these Sessions, I have repeatedly emphasized the Commission=s dissatisfaction with SBC/Ameritech-Illinois= service quality levels, noting that in a few instances service levels have egregiously declined by *very* substantial factors from prior month=s levels.@[21] As indicated in the September 6, 2000 statement issued by the ICC's Chairman, questions have been raised regarding the veracity of the Company's service quality data, and the ICC's Consumer Services Division has received a significant increase in customer complaints.

In fact, SBC/Ameritech has had service quality performance problems throughout its Ameritech operating territory. This past fall, five state Public Utility Commissions issued a joint statement detailing these problems and called for a joint forum to address these issues. The joint statement noted that the company had "in recent months consistently demonstrated its inability to effectively operate the local exchange telecommunications operations that it controls in Illinois, Indiana, Michigan, Ohio and Wisconsin."[22] In October 2000, FCC Common Carrier Bureau Chief Dorothy T. Attwood sent a letter to SBC asking for an explanation as to why its service quality had deteriorated in several states since the FCC had approved its merger with Ameritech.[23]

Of course, the current ARMIS reporting system itself also greatly aids in identifying and documenting the areas in which ILEC service quality has declined in recent years. The ARMIS Service Quality Reports reveal that nationwide ILEC service quality has declined in nine of eleven categories since 1993.[24] The complaint rate has more than doubled from 160 complaints to almost 350 complaints per million lines. Repeat trouble reports have leaped by more than 25 percent during the same years. Installation commitments and repair

[20] *See, e.g.,* Direct Testimony of Robert G. Harris on behalf of Ameritech Illinois before the Illinois Commerce Commission, ICC Docket No. 98-0252, June 30, 2000, at 17.

[21] Illinois Commerce Commission, Telecommunications Policy Committee, Statement of Chairman Richard L. Mathias Regarding SBC/Ameritech-Illinois Service Quality, September 6, 2000, at 2.

[22] Michigan Public Service Commission News Release, "Joint Statement," September 29, 2000, at http://www.cis.state.mi.us/mpsc/orders/press/2000/pr.text.htm.

[23] *Telecommunications Reports*, "Bureau Targets SBC on Service Quality," October 9, 2000.

[24] ARMIS Service Quality Results, Using Table 43-05, Data accessed January 8, 2001, http://www.fcc.gov/ccb/armis/sq/.

intervals have all declined. Attachment A to OPC's Comments includes several summary tables from the ARMIS Service Quality Reports documenting these trends.

Clearly, while some ILECs may be feeling the pressure of competition in some geographic areas or for particular services, it is far too early to rely on competitive forces to discipline ILECs with respect to service quality. The lack of robust competition throughout the local telecommunications markets, both in terms of the type and location of the customer, and the persistence of service quality problems among the major ILECs reinforce this conclusion.

II. While OPC supports greater dissemination of service quality information to consumers, it is premature to eliminate the collection and reporting of ARMIS data that is most useful to regulators' evaluation of ILEC service quality performance.

When considering the merits of the NPRM's proposals to eliminate or consolidate certain types of ILEC service quality now collected via the ARMIS system, it is essential to recall why these reporting requirements were established in the first place. While some service quality reporting was in existence even earlier, in 1989 the Commission decided to adopt a price caps regulatory regime for the major ILECs, and as part of that process it chose to strengthen and expand the service quality reporting mechanisms applicable to the ILECs, which ultimately led to the creation of the ARMIS system. In its April 1989 *Report and Order and Second Further Notice of Proposed Rulemaking* concerning price caps, the Commission noted that a number of commenters had expressed concerns that price caps regulation would create incentives for ILECs to increase their profit margins by reducing or deferring network investments and maintenance, thereby lowering their service quality.[25] The Commission responded to those concerns, noting that "Our interest in monitoring LEC service quality stems from the concerns expressed by state commissions and other commenters about the possible impact of price caps on LEC service quality. Both to allay those concerns, and to provide ourselves with data to assist our evaluation of our price caps program, we propose to expand our monitoring of LEC quality of service for those carriers subject to price cap regulation.[26] The ILEC price cap order adopted on September 19, 1990 expanded the existing reporting procedures to include measures of installation intervals, repair intervals, several network-related measures, and service order response time.[27]

As demonstrated earlier in these Comments, the concerns that at least some ILECs would allow service quality to deteriorate under price caps have been validated. The slow

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[25] FCC, *In the Matter of Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Report and Order and Second Further Notice of Proposed Rulemaking, released April 17, 1989, at para. 583.

[26] *Id*., at para. 598.

[27] *In the Matter of Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, released September 19, 1990 (<u>LEC Price Cap Order</u>), at paras. 332-349.

penetration of competition into local exchange markets does not appear to have had much impact on ILECs' service quality performance, or on the incentives that ILECs face under price caps to forego network maintenance and investments whenever doing so would increase their bottom line.

A. As the Commission has already acknowledged, the ARMIS reporting system provides data that is essential for benchmark evaluations of the ILECs' service quality performance.

One of the most important features of the ARMIS data collection and reporting system is that it has established a uniform set of service quality measurements for ILECs operating throughout the U.S. By examination of this unique dataset, the Commission and state regulators can make "apples-to-apples" comparisons of service quality performance between ILECs (as well as over time for the same ILEC) that cannot be made using the various, disparate types of service quality data routinely reported to state PUCs. Such inter-carrier comparisons allow regulators to evaluate the service quality offered by ILECs within their jurisdiction with that achieved by their peers, in a relatively even-handed, objective manner. Moreover, because telecommunications technology and related administrative and provisioning systems (including Operations Support Systems) continue to evolve and improve, the levels of service quality that ILECs should be able to achieve also continue to rise. Accordingly, inter-carrier comparisons not only permit regulators to detect where particular ILECs may be falling behind their peers with respect to quality of service, but also to continually assess and redefine reasonable objectives for the ILECs' service quality performance. The present ARMIS system is indispensable to the undertaking of these types of "benchmarking" analyses.

In other contexts, the Commission has already recognized the importance of benchmarking the performance of ILECs, and the crucial role that the availability of comparative information plays in benchmarking. In fact, the Commission made an in-depth analysis of this issue, in the course of evaluating the impacts of the proposed SBC/Ameritech merger. The Commission decision approving that merger specifically observed that the ability to perform benchmark analyses of the ILECs' performance is a valuable and cost-effective regulatory tool. As expressed therein:

> In this section, we analyze the effect of the proposed merger on the ability of regulators and competitors to use comparative analyses of the practices of similarly situated independent incumbent LECs to implement the Communications Act in an effective, yet minimally intrusive manner. *Such comparative practices analyses, referred to by some commenters as "benchmarking," provide valuable information regarding the incumbents' networks to regulators and competitors seeking, in particular, to promote and enforce the market-opening measures required by the 1996 Act and the rapid deployment of advanced services. Without the use of this tool, regulators would be forced, contrary to the 1996 Act and similar state laws, to engage in less efficient, more intrusive regulatory intervention in order to promote competition and secure quality service at reasonable rates for customers.* We find that the proposed

> merger of SBC and Ameritech would pose a significant harm to the public interest by severely handicapping the ability of regulators and competitors to use comparative practices analysis as a critical, and minimally-intrusive, tool for achieving the Communications Act's objectives.[28]

In the same decision, the Commission describes two types of benchmarking, "best-practices" and "average-practices" benchmarking. Under the "best-practices" approach, a regulator compares performance across a group of similarly situated, independent firms in order to identify the best practice employed by one or more of the firms. Under the "average-practices" approach, a regulator gathers data from several firms in order to identify the prevailing standard or to calculate the average, which then could be used as a benchmark against which to evaluate an individual LEC's performance. As the Commission specifically observed, "substantial deviation from the benchmark average can assist regulators and competitors in detecting substandard, and potentially unreasonable, behavior, such as poor service quality or unreasonable costs. Variations of this form of comparative practices analysis also can be used to monitor service quality or to detect unreasonable or discriminatory costs or practices." [29]

The Commission also emphasized therein that the ability to obtain comparative data from a large number of ILECs is a crucial prerequisite to effective "average-practices" benchmarking. As stated in the order: "To be effective, however, average-practices benchmarking requires data from a large number of independent, similarly situated incumbent LECs, none of which is large enough to dominate, or skew, the aggregate data."[30] The ARMIS system is the only repository of this type of data collected on a standardized, consistent basis for all reporting ILECs across the country.

Finally, the Commission had concluded that the absence of benchmarking data would increase the costs of regulatory oversight and reduce its potential effectiveness. In the Commission's words:

> Absent the ability to benchmark among major independent incumbent LECs, this Commission and state regulators would have no choice but to engage in highly intrusive regulatory practices, such as investigating the challenged conduct directly and at substantial cost to make an assessment regarding its feasibility or reasonableness. The increased need for such direct regulation would not only be more costly, but it would clash with the deregulatory goals of the 1996 Act. Furthermore, these more intrusive and

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[28] *In re: Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., CC Docket No. 98-141 Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules*, CC Docket No. 98-141, Memorandum Opinion and Order, released October 8, 1999, at para. 101 (emphasis added).

[29] *Id.*, para. 112, (footnote omitted).
[30] *Id.*

> costly regulatory alternatives are unlikely to be as effective as comparative practices analysis in implementing the pro-competitive mandates of the 1996 Act, given the rapid evolution of technology, the incumbent LECs' informational advantage and their incentive to conceal such information."[31]

OPC agrees with this assessment, and as a consequence we strongly encourage the Commission to refrain from altering the ARMIS system in any way that would impair the ability of regulators to use ARMIS data to conduct such ILEC benchmarking analyses. Moreover, while we address the particular details of the NPRM's proposed "streamlining" of the ARMIS service quality reporting regime elsewhere in these Comments, we note that the Commission expressly conditioned its approval of the SBC/Ameritech merger on the retention of existing ARMIS reporting procedures to permit continued benchmarking, and *expanded* the service quality reporting obligations of the merged entity to also include measures recommended in the National Association of Regulatory Utility Commissioners (NARUC) Technology Policy Subgroup's November 1998 "Service Quality White Paper."[32] The "streamlining" proposals contained in the NPRM are clearly contrary to both the objectives and the substance of those conditions that it placed on the SBC/Ameritech merger, and would undercut the Commission's ability to uphold its commitment to monitor the impacts of that merger on service quality in the SBC/Ameritech states.

III. Decisions to modify specific ARMIS reporting requirements should be made in the context of the potential gains or losses to consumers from changes in the level of service quality that they ultimately receive.

OPC believes that the current ARMIS reporting system is functioning relatively well, in view of the tradeoff between making such information accessible and comprehensive, yet not unduly burdening carriers with reporting requirements. OPC anticipates that the ILECs will support most of the Commission's proposals to reduce service quality reporting, and emphasize the reduction in the "regulatory burden" that would result from eliminating reporting requirements. While OPC recognizes that carriers do expend time and resources to comply with mandatory reporting, OPC believes that the incremental expense savings from eliminating specific requirements may not be very significant. After all, ARMIS is an automated reporting system, and reporting ILECs have already incurred the programming expenses and development costs of establishing their data collection and reporting systems that produce the data submitted to ARMIS. In fact, some well-intentioned attempts to reduce reporting obligations could cause ILECs to incur net expenses to modify their established systems. For example, it appears that the Commission proposal to eliminate the distinction between Initial and Repeat trouble reports[33] could have such an unintended effect.

[31] *Id.*, at para. 113 (footnotes omitted).
[32] *Id.*, at paras. 403-404.
[33] NPRM, at para. 19.

However, OPC urges the Commission to evaluate potential modification to ARMIS in a wider context, which includes their long-run impact on consumer welfare. As a general matter, OPC believes that potential modifications to the existing requirements should be evaluated with consideration of how such additions or deletions would impact regulators' ability to monitor ILECs' service quality, and weighed against the potential gains or losses to consumers from changes in the level of service quality that they ultimately receive. These considerations form the basis for the specific recommendations that OPC details below.

A. Most of the Commission proposals to modify retail service quality reporting should not be adopted.

Installation reporting. The Commission seeks comment on whether to modify the reporting of installation intervals from a simple average to the measure assessed relative to a specified number of days, e.g. the percentage of orders installed within five days.[34] In particular, the Commission is concerned that the average installation interval may be skewed by outliers.[35] OPC recommends that the current reporting of average installation intervals should be retained. While outliers may have significant effects on the averages measured for small populations (or using small sample sizes), reporting ILECs typically have many thousands of orders within each reporting category,[36] so that outlier effects are likely to be minimal for most carriers. On the other hand, using a predefined threshold for evaluating installation performance is problematic, because there is wide variation in individual ILECs' installation intervals,[37] so that no given threshold will yield meaningful information for all carriers, and instead could mask changes in performance.[38] OPC also observes that the appears to be proposing to eliminate reporting of the percentage "missed for customer reasons."[39] OPC believes that this measure should be retained, so that such installation misses are not mis-attributed to the ILECs.

[34] *Id.*, at para. 18.

[35] *Id.*

[36] For example, the GTE-Southwest operating company Contel-Texas (COSA "COTX") reported over 82,000 residence non-MSA installation orders for 1999; even the much smaller Citizens – Red Hook (NY) telephone company (COSA "CTRH") reported 2293 residence service installations (all non-MSA) in 1999, despite a total access line count of only 12,222. Source: ARMIS Report 43-05, Table IIa, accessed 1/11/01.

[37] E.g., the 1999 average installation intervals reported by Contel-Texas and Citizens – Red Hook are 1.3 days and 7.3 days for the categories noted above (*id.*).

[38] E.g., a change in Contel-Texas' average interval from 1.3 days to 4 days would be significant to consumers (and regulators), but might not be detected if a 5-day threshold was used.

[39] Compare Appendix A ("Current ARMIS Requirements"), row 0111, to Appendix B ("Proposed Core Service Quality Reporting Requirements").

Trouble reporting. The Commission seeks comment on whether to eliminate the current disaggregation of initial vs. repeat trouble reports.[40] OPC recommends that this distinction be maintained. We concur in the Commission's conclusion that this data "is a useful diagnostic tool for regulators",[41] and in light of the fact that it is premature to abandon regulatory oversight of ILECs' service quality,[42] such reporting should be continued. For the same reason, we believe that average intervals for all types of trouble reporting, not just out-of-service troubles, should be retained.[43]

Repair intervals and appointments. The Commission seeks comment on whether to initiate reporting of missed repair commitments, and how repair intervals should be measured.[44] OPC recommends that repair intervals should be measured on an average basis, consistent with the treatment for installation intervals (see above). OPC also supports the addition of reporting on repair commitments missed, as this is an overlooked aspect of service quality and its addition would provide a more complete picture of ILECs' performance.

Other types of information. The Commission asks whether additional types of service quality information should be reported.[45] OPC believes that the most important addition to make at this time is data relating to xDSL services. This area is discussed separately below.

B. ILEC customer satisfaction surveys may be too subjective to provide meaningful information for inter-carrier benchmarking purposes.

The Commission seeks comment on whether to eliminate the current requirement that ILECs perform surveys of their customers on a periodic basis and report customer satisfaction (separately for residence, small business, and large business categories) in ARMIS Report 43-06.[46] OPC believes that the goal of ascertaining ILEC subscribers' overall perceptions of the service that they are receiving is important, and that the more detailed measures reported today will not necessarily reflect accurately subscribers' overall satisfaction. Nevertheless, we concur that actual complaint information is likely to be a better indicator than a telephone survey,[47] particularly when it is conducted by the ILECs themselves, who have a vested interest in the results. One solution to that problem might be to have the surveys conducted by an independent entity, e.g. selected by the state regulatory commission staffs. However, the canvassing of opinions as to "satisfaction" is an inherently subjective process, depending as much on consumer expectations as services delivered.

[40] NPRM, at para. 19.
[41] *Id.*
[42] See *infra.*
[43] NPRM, at para. 20.
[44] *Id.*, at paras. 21-22.
[45] *Id.*, at para. 23.
[46] *Id.*, at para. 42.
[47] *Id.*

Moreover, differences in design, timing and implementation of such surveys will tend to diminish the meaningfulness of their results, especially for comparing across different carriers. Finally, this requirement would appear to impose one of the higher recurring expense burdens on ILECs compared to other ARMIS requirements, since the surveys must be conducted anew each time. For these reasons, OPC tentatively concludes that the survey and related reporting requirements should be eliminated.

C. Oversight of network reliability remains a regulatory responsibility and the reliability measures currently reported by ILECs should be maintained.

The Commission asks whether the data contained in Table IV of the ARMIS Report 43-05, which relates to ILEC network reliability, should be continue to be required.[48] The Commission also seeks comment on "whether competitive pressures to achieve network reliability in today's marketplace" make such reporting unnecessary.[49] Given the slow progress in local exchange competition that OPC has documented earlier in these Comments, OPC finds such competitive pressures largely have not materialized. In fact, it can be argued that the on-going transition from largely monopolistic markets to a multi-carrier environment has increased the technical challenges faced by ILECs in preserving network reliability. In OPC's view, monitoring of ILECs' network reliability will remain a basic regulatory responsibility for some years to come, and therefore the existing Table IV reporting should continue.

Interexchange access services. The Commission seeks comment on whether it should eliminate certain types of service quality data that price cap ILECs must report concerning access services provided to interexchange carriers (IXCs).[50] In particular, the Commission proposes to eliminate the reporting of common trunk group blockage rates, and access services installation and repair performance. While OPC agrees with the NPRM's premise that IXCs are more strongly positioned than residential and small business consumers to demand acceptable service,[51] the interstate switched access market is not fully competitive in all areas, and thus alternatives are not always readily available. Furthermore, we note that rural end users may be more likely to experience adverse impacts from increases in common trunk blockage because the switched access market, like local exchange markets, is less likely to afford competitive substitutes in rural areas. We anticipate that IXCs will provide their own responses to this proposal, but nonetheless urge the Commission to carefully evaluate the status of competition in access services before it deciding whether continued regulatory monitoring in this area is necessary.

[48] *Id.*, at para. 40.
[49] *Id.*
[50] *Id.*, at para. 39.
[51] *Id.*

D. The Commission should extend the service quality reporting requirements applied to basic exchange services to encompass regulated xDSL service offerings.

Broadband services. The Commission seeks comment on whether to initiate reporting on service quality for broadband services, such as xDSL services.[52] OPC believes that these services are rapidly growing in importance to consumers, who are very interested in obtaining high quality, cost-effective means to access the Internet and other forms of on-line information. While OPC believes that the Commission should take into account the potential burdens placed on carriers whenever it contemplates new reporting requirements, OPC believes that in this instance there would be substantial net benefits from obtaining service quality information on mass market-oriented broadband services such as xDSL. Therefore, OPC recommends that the Commission require ILECs to report the same types of data for regulated xDSL services as reported for basic exchange services (i.e., the measures on service installation, trouble reporting, and repair).

E. The proposal to "streamline" MSA/non-MSA reporting would eliminate reporting detail essential to the detection and prevention of service quality declines in rural regions.

The Commission also seeks comment on USTA's proposal to eliminate the requirement that service quality data be disaggregated between Metropolitan Statistical Areas (MSAs) and Non-Metropolitan Statistical Areas (Non-MSAs). OPC strongly disagrees with this proposal.[53] To the contrary, OPC believes that it is particularly important to monitor ILECs' service quality performance in the more rural portions of their service territory, for several reasons. First, those regions are the least likely to experience competitive entry, which to date has focused primarily on the business services markets in higher-density, more urbanized areas. The uneven development of competition has two implications: (1) ILECs will face less potential revenue (and profit) losses from deteriorated service quality in more rural areas because customers there have fewer service alternatives; and (2) to the extent competitive pressures are developing in the more urbanized areas, ILECs may shift their limited capital budgets and manpower resources for network improvements and maintenance to those areas, and thus away from the rural regions.

Second, Section 254(b)(3) ("Access in Rural and High Cost Areas") of the *Federal Telecommunications Act of 1996* prescribes as a matter of law that subscribers in rural regions of the country (as well as subscribers in "insular" and "high cost" areas) should have access to telecommunications services that is "reasonably comparable to those services provided in urban areas." In order to ensure that this objective is met, regulators must have the information to monitor the availability, pricing, and quality of telecommunications services in rural areas. While further disaggregation of service quality may be even more useful for this purpose, the existing requirement to report non-MSA areas separately from MSA areas is essential for such monitoring, and therefore should not be eliminated.

[52] *Id.*, at para. 25.
[53] *Id.*, at para. 12.

F. Neither consumers nor regulators would benefit significantly from an expansion of FCC service quality reporting requirements to encompass CLECs.

The Commission seeks comment on the benefits and costs of imposing service quality reporting requirements on a broader class of carriers than are required to report through ARMIS at this time.[54] OPC believes that the cost to CLECs of requiring them to provide service quality data far outweighs the benefits to consumers of doing so. Focusing application of the reporting requirements upon ILECs will not jeopardize service quality or harm consumers' interests because in order to retain existing customers and attract new customers, CLECs are compelled to provide a level of service quality that is equal or superior to that of the ILEC. Thus, CLECs have a strong incentive to provide adequate service quality. However, most ILEC customers still have no alternative provider for their local exchange service. CLEC customers, by definition, always have an alternative, and can thus return to the ILEC, or default provider, if they are dissatisfied with the quality of service being provided by the CLEC. Furthermore, expanding such reporting requirements to CLECs is likely to inhibit entry of new carriers and, thus, the development of competition. Overall, the benefits to competition from lowering entry barriers and keeping regulatory costs low for new entrants outweigh what can be obtained through detailed service quality regulation of CLECs.

In addition, CLEC services remain dependent on the wholesale service quality supplied by ILECs until facilities-based competition grows. As such, the service quality they offer to end users is affected by the quality of those wholesale services provided by the ILECs.

G. The Commission should adopt cost-effective mechanisms to ensure that consumers have access to ILEC service quality data.

The Commission proposes to continue to act as the "central clearinghouse for service quality data" but seeks comment on the whether carriers should be required to post the number of complaints pending before the FCC and state commissions on their own websites in addition to filing the data with the Commission.[55] OPC believes that requiring ILECs to place that information on their own website, in addition to the FCC's website, would expand consumer awareness of that data. Many consumers presently may not be aware of the data available at the FCC website, or from the ARMIS system in particular. For this reason, OPC proposes that carriers be required to send a periodic notice in customers' bills that details the data available on its own website and informs customers of the Commission's ARMIS system.

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[54] *Id.*, at para. 29.
[55] *Id.*, at para. 36.

OPC believes that several additional steps could be taken to make the information compiled in the ARMIS system more consumer-friendly, without reducing its value as a resource to regulators. First, it would be helpful to reposition the summary graphs that are already provided by ARMIS (on the "ARMIS Service Quality Results" page) to be more easily accessible to consumers who access the FCC website, e.g. by placing them under the "Consumer Information" page of the Common Carrier Bureau. A number of these graphs are reproduced in Attachment A to these Comments. Second, the Commission should add further consumer-oriented narrative definition and explanation of the various service quality measures therein. Third, the Commission should consider expanding the set of graphical displays to include the same type of data for all reporting carriers. This type of information presentation would be a valuable resource for consumers interested in evaluating carriers' service quality performance.

The Commission also seeks comment on what public disclosure methods should be used for those customers without access to the internet.[56] Carriers should be required to mail to subscribers, upon request, and at reasonable cost, a summary report of the most current data filed with the Commission. The summary reports should include graphs and narrative that closely follows the definitions and explanations prepared by the Commission for its website (see above). Information about the availability of this option also should be part of the periodic insert in customers' bills. In this way, consumers without easy access to the Internet would also be able to obtain service quality information relatively conveniently.

[56] *Id.*, at para. 43.

III. CONCLUSION.

In these Comments, OPC has shown that competition in the local exchange market has failed to progress sufficiently to conclude that regulatory oversight of ILECs' service quality is unnecessary, or can be supplanted by making service quality data available to end users. While OPC supports the Commission's initiative to afford consumers greater access to service quality information that may be useful in assessing their local service options, OPC opposes changes to the current ARMIS reporting requirements that would diminish the scope and meaningfulness of the service quality information available to federal and state regulators. In particular, OPC encourages the Commission to reaffirm the conclusions that it reached in the context of the SBC/Ameritech merger proceeding concerning the crucial importance of benchmarking information, and thus not adopt any "streamlining" of ARMIS that would impair its unique ability to facilitate service quality comparisons among the ILECs. From that perspective, OPC has reviewed the Commission's specific proposals and made numerous recommendations, including that service quality reporting should be extended to the regulated xDSL services offered by the ILECs, given the rapidly growing importance to consumers of access to the Internet and related information services. OPC has also offered some proposals for increasing consumer awareness of and access to publicly-available service quality information. OPC thus urges the Commission to adopt each of the recommendations and proposals set forth in these Comments.

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